



March 10, 2009

ENGROSSED SENATE BILL No. 98

DIGEST OF SB 98 (Updated March 9, 2009 12:23 pm - DI 77)

Citations Affected: IC 12-7; IC 12-15.

Synopsis: Mental health Medicaid quality advisory committee. Establishes the mental health Medicaid quality advisory committee as a permanent committee to advise the drug utilization review board. (Under current law, the mental health quality advisory committee expires June 30, 2009.)

Effective: July 1, 2009.

Lawson C, Simpson, Charbonneau
(HOUSE SPONSORS — BROWN C, NOE)

January 7, 2009, read first time and referred to Committee on Health and Provider Services.

January 14, 2009, reported favorably — Do Pass.

January 22, 2009, read second time, ordered engrossed.

January 23, 2009, engrossed.

January 26, 2009, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Public Health.

March 10, 2009, amended, reported — Do Pass.

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March 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-3.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 3.3. "Advisory committee", for purposes of**
4 **IC 12-15-35-51, has the meaning set forth in IC 12-15-35-51.**

5 SECTION 2. IC 12-15-35-51 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2009]: **Sec. 51. (a) As used in this section,**
8 **"advisory committee" refers to the mental health Medicaid quality**
9 **advisory committee established by subsection (b).**

10 **(b) The mental health Medicaid quality advisory committee is**
11 **established. The advisory committee consists of the following**
12 **members:**

13 **(1) The director of the office or the director's designee, who**
14 **shall serve as chairperson of the advisory committee.**

15 **(2) The director of the division of mental health and addiction**
16 **or the director's designee.**

17 **(3) A representative of a statewide mental health advocacy**

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organization.

(4) A representative of a statewide mental health provider organization.

(5) A representative from a managed care organization that participates in the state's Medicaid program.

(6) A member with expertise in psychiatric research representing an academic institution.

(7) A pharmacist licensed under IC 25-26.

The governor shall make the appointments for a term of four (4) years under subdivisions (3) through (7) and fill any vacancy on the advisory committee.

(c) The office shall staff the advisory committee. The expenses of the advisory committee shall be paid by the office.

(d) Each member of the advisory committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the advisory committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The affirmative votes of a majority of the voting members appointed to the advisory committee are required by the advisory committee to take action on any measure.

(g) The advisory committee shall advise the office and make recommendations concerning the implementation of IC 12-15-35.5-7(c) and consider the following:

(1) Peer reviewed medical literature.

(2) Observational studies.

(3) Health economic studies.

(4) Input from physicians and patients.

(5) Any other information determined by the advisory committee to be appropriate.

(h) The office shall report recommendations made by the advisory committee to the drug utilization review board established by section 19 of this chapter.

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(i) The office shall report the following information to the select joint commission on Medicaid oversight established by IC 2-5-26-3:

(1) The advisory committee's advice and recommendations made under this section.

(2) The number of restrictions implemented under IC 12-15-35.5-7(c) and the outcome of each restriction.

(3) The transition of individuals who are aged, blind, or disabled to the risk based managed care program. This information shall also be reported to the health finance commission established by IC 2-5-23-3.

(4) Any decision by the office to change the health care delivery system in which Medicaid is provided to recipients.

(j) Notwithstanding subsection (b), the initial members appointed to the advisory committee under this section are appointed for the following terms:

(1) Individuals appointed under subsection (b)(3) and (b)(4) are appointed for a term of four (4) years.

(2) An individual appointed under subsection (b)(5) is appointed for a term of three (3) years.

(3) An individual appointed under subsection (b)(6) is appointed for a term of two (2) years.

(4) An individual appointed under subsection (b)(7) is appointed for a term of one (1) year.

This subsection expires December 31, 2013.

SECTION 3. IC 12-15-35.5-7, AS AMENDED BY P.L.8-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Subject to subsections (b) and (c), the office may place limits on quantities dispensed or the frequency of refills for any covered drug for the purpose of:

(1) preventing fraud, abuse, or waste;

(2) preventing overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(A) clinical quality and patient safety; and

(B) accepted clinical practice for the diagnosis and treatment of mental illness; or

(3) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office shall:

(1) consider quality of care and the best interests of Medicaid recipients;

(2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board;

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and

(3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(c) Subject to subsection (d), the board may establish and the office may implement a restriction on a drug described in section 3(b) of this chapter if:

(1) the board determines that data provided by the office indicates that a situation described in IC 12-15-35-28(a)(8)(A) through IC 12-15-35-28(a)(8)(K) requires an intervention to:

(A) prevent fraud, abuse, or waste;

(B) prevent overutilization, inappropriate utilization, or inappropriate prescription practices that are contrary to:

(i) clinical quality and patient safety; and

(ii) accepted clinical practice for the diagnosis and treatment of mental illness; or

(C) implement a disease management program; and

(2) the board approves and the office implements an educational intervention program for providers to address the situation.

(d) A restriction established under subsection (c) for any drug described in section 3(b) of this chapter:

(1) must comply with the procedures described in IC 12-15-35-35;

(2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;

(3) may not lessen the quality of care; and

(4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide for the dispensing of a temporary supply of the drug for a prescription not to exceed seven (7) business days, if additional time is required to review the request for override of the restriction. This subsection does not apply if the federal Food and Drug Administration has issued a boxed warning under 21 CFR 201.57(e) that applies to the drug and is applicable to the patient.

(f) Before implementing a restriction established under subsection (c), the office shall:

(1) seek the advice of the ~~mental health quality advisory committee until June 30, 2009;~~ **mental health Medicaid quality advisory committee established by IC 12-15-35-51;** and

(2) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

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- 1 (1) apply only to drugs described in section 3(b) of this chapter;
- 2 and
- 3 (2) do not apply to a restriction on a drug described in section
- 4 3(b) of this chapter that was approved by the board and
- 5 implemented by the office before April 1, 2003.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 98, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 98 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 98, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, delete "appoint members" and insert "**make the appointments for a term of four (4) years**".

Page 2, line 10, delete "for a term of four (4) years".

Page 2, line 29, delete "for" and insert "**by**".

Page 2, line 33, delete "with respect to the diagnosis and treatment of" and insert "**and**".

Page 2, delete line 34.

Page 2, line 35, delete "advisory committee shall".

Page 2, line 42, after "report" delete "the".

Page 3, line 3, after "report" insert "**the following information**".

Page 3, line 4, delete "concerning the" and insert ":".

Page 3, delete line 5.

Page 3, line 6, delete "advice given" insert "**advisory committee's advice**".

Page 3, line 6, delete "by the".

Page 3, line 7, delete "advisory committee".

Page 3, line 15, delete "through" and insert "**in**".

and when so amended that said bill do pass.

(Reference is to SB 98 as printed January 15, 2009.)

BROWN C, Chair

Committee Vote: yeas 9, nays 0.

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